

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

WEST VIRGINIA BOARD OF MEDICINE,

Petitioner,

v.

Complaint No. 12-123-W

KENNETH JAMES SEEN, M.D.

Respondent.

ORDER GRANTING RESPONDENT'S MOTION FOR CONTINUANCE

On November 13, 2012, the Respondent, Kenneth James Seen, M.D., by counsel, David K. Moore, filed a Motion for Continuance of the hearing in the above-captioned matter.

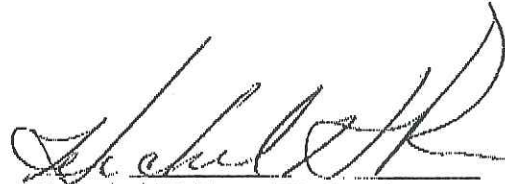
Whereupon, upon review of the motion, it is hereby found as follows:

1. The hearing in this matter is scheduled to begin on November 19, 2012, at the offices of the Petitioner, West Virginia Board of Medicine ["Board"], in Charleston, West Virginia, pursuant to the Board's Order of Summary Suspension of License to Practice Medicine and Surgery and Notice of Hearing dated November 5, 2012.
2. On November 13, 2012, Respondent Kenneth James Seen, M.D., filed Respondent's Motion to Continue the hearing seeking a continuance of the hearing until mid to late January 2013 in order to permit his counsel to conduct further investigation of the allegations against him.
3. Petitioner indicates, through counsel, that it has no objection to the continuance of hearing to a mutually convenient date as long as the continuance is not construed as a failure of the Board to adhere to and follow the provisions of West Virginia Code § 30-3-14(k) and 11 CSR 3 10.16, and as long as Dr. Seen understands that his license to practice medicine and surgery in the State of West Virginia will remain on a "suspended" status until the Board enters a final Order following the conclusion of the hearing in this matter.

4. It is found that good cause has been shown for the continuance of the hearing in this matter from November 19, 2012, to a date which is subsequent to January 15, 2013, and which is mutually convenient to the parties.

WIIEREFOR, the Respondent's Motion for Continuance is GRANTED.

Dated this 15th day of November, 2012.


Herschel H. Rose, III, Esquire
Hearing Examiner

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

WEST VIRGINIA BOARD OF MEDICINE,

Petitioner,

V.

Complaint No. 12-123-W

KENNETH JAMES SEEN, M.D.

Respondent.

ORDER OF SUMMARY SUSPENSION
OF LICENSE TO PRACTICE MEDICINE AND SURGERY
AND NOTICE OF HEARING

The West Virginia Board of Medicine ["the Board"] hereby SUMMARILY SUSPENDS the license of Kenneth James Seen, M.D., License No. 15316, to practice medicine and surgery in the State of West Virginia pursuant to West Virginia Code § 30-3-14(a), West Virginia Code §30-3-14(c)(17), West Virginia Code §30-3-14(k) and 11 CSR 3 10.16 due to an immediate danger to the public safety, health or welfare as a result of his arrest on a felony charge of child abuse creating risk of injury and on misdemeanor charges of battery and assault.

FINDINGS OF FACT

1. Kenneth James Seen, M.D. ["Dr. Seen"] holds a license to practice medicine and surgery in the State of West Virginia, No. 15316 which was initially issued in 1987. Dr. Seen's address of record with the Board is in Spencer, West Virginia. See, Public Current Report of Licensee, attached hereto as Exhibit A.

2. On or about November 1, 2012, the Board learned that Dr. Seen had been arrested on criminal charges on October 31, 2012.

3. The Board subsequently contacted the Magistrate Court of Roane County, which provided the Board with copies of documents relating to one felony charge and three misdemeanor charges which were brought against Dr. Seen on October 31, 2012.

4. One Criminal Complaint issued against Dr. Seen on October 31, 2012, in Case Nos. 12-F-276, 12-M-997 and 12-M-998 reflects that probable cause was found to exist and warrants issued for violations of West Virginia Code § 61-8D-3(c) for child abuse creating risk of injury, West Virginia Code § 61-2-9(c) for battery and West Virginia Code § 61-2-9[b] assault. See, Criminal Complaint in Case Nos. 12-F-276, 12-M-997 and 12-M-998, attached hereto as Exhibit B.

5. The Criminal Complaint attached as Exhibit B indicates that it was based on information from the Complainant, who was identified as [West Virginia State Police] Trooper F. L. Hammack of Spencer. The Criminal Complaint reflects that it was based upon the following facts: "On 10/17/12 I was requested by Sgt. J. Caldwell of the Spencer City Police Department to investigate a child abuse complaint involving a 14-year-old male and Mr. Kenneth Seen, pastor of Christian Society of Roane County, located in Spencer. Sgt. Caldwell stated that the [REDACTED] is an employee of the City and would be more comfortable with an outside agency investigating the incident. On the same date, at approximately 1330 hours I began interviewing the victim and three other teenagers that were present. The victim told me that Mr. Seen picked him and his brother up to take them to church on October 7, 2012 in the evening. The victim stated that he was sitting on a ledge over the entrance and had his knife and cell phone. The victim stated that

Mr. Seen instructed him to get down and he did. The victim went on to say that he went to go back up and get his phone and knife and Mr. Seen grabbed him about the waist and threw him to the ground. The victim went on to say that Mr. Seen got on his back and began punching him with closed fists repeatedly. The victim stated that Mr. Seen took him into the rear of the building and pushed him into the refrigerator. The victim stated he used profanity and Mr. Seen then slapped him across the face. I spoke with three other teenage boys present and [sic] separate times. All of them recounted the incident as the victim did. No other adults were present at the time of the incident." See, Criminal Complaint in Case Nos. 12-F-276, 12-M-997 and 12-M-998, attached hereto as Exhibit B.

6. The Criminal Complaint attached as Exhibit B indicates that West Virginia Code § 61-8D-3(c) provides that "child abuse creating risk of injury" is defined as: "Any person who abuses a child and by the abuse creates a substantial risk of serious bodily injury or death." See, Criminal Complaint in Case Nos. 12-F-276, 12-M-997 and 12-M-998, attached hereto as Exhibit B.

7. The Criminal Complaint attached as Exhibit B indicates that West Virginia Code § 61-2-9(c) provides that battery is defined as: "Any person who unlawfully and intentionally makes physical contact of an insulting or provoking nature with the person of another or unlawfully an [sic] intentionally causes physical harm to another person." See, Criminal Complaint in Case Nos. 12-F-276, 12-M-997 and 12-M-998, attached hereto as Exhibit B.

8. The Criminal Complaint attached as Exhibit B indicates that West Virginia Code § 61-2-9(b) provides that assault is defined as: "Any person who unlawfully attempts to commit a violent injury to the person of another or unlawfully commits an act that places another in

reasonable apprehension of immediately receiving a violent injury.” See, Criminal Complaint in Case Nos. 12-F-276, 12-M-997 and 12-M-998, attached hereto as Exhibit B.

9. A second Criminal Complaint issued against Dr. Seen on October 31, 2012, in Case No. 12-M-996 reflects that probable cause was found to exist and a warrant issued for a violation of West Virginia Code § 61-2-9(c) for battery. See, Criminal Complaint in Case No. 12-M-996, attached hereto as Exhibit C.

10. The Criminal Complaint attached as Exhibit C indicates that it was based on information from the Complainant, who was identified as [West Virginia State Police] Trooper F. L. Hammack of Spencer. The Criminal Complaint reflects that it was based upon information from a Ms. Y_____ W_____ [redacted], who came to West Virginia State Police in Spencer to file a complaint regarding an assault committed against her father, J_____ S_____ [redacted]. The Complaint indicates that Ms. W_____ reported that Roane General Hospital reported to her that Mr. S_____, who suffered from dementia and Parkinson’s Disease, had bitten the tongue of Dr. Seen. It indicates that Trooper Hammack obtained Mr. S_____'s medical records and had spoken with Dr. Seen, who alleged that Mr. S_____ had “grabbed his tongue and pulled Dr. Seen close to him and then Dr. Seen’s memory fades. His statement claimed that he just remembered pain and blood.” See, Criminal Complaint in Case No. 12-M-996, attached hereto as Exhibit C.

11. The Criminal Complaint attached as Exhibit C further indicates that Trooper Hammack interviewed an Emergency Room doctor who had treated Dr. Seen after the incident. That doctor indicated that Dr. Seen could not have caused the injury to himself and that Dr. Seen’s version of events could not be true, according to the Complaint. The ER doctor and the nursing staff at Roane General Hospital also indicated that Mr. S_____ was not physically able to have

carried out the actions described by Dr. Seen, according to the Complaint. See, Criminal Complaint in Case No. 12-M-996, attached hereto as Exhibit C.

12. The Board also obtained from the Magistrate Court of Roane County copies of four documents entitled "Warrant for Arrest," which reflect that warrants were issued in each of the four Criminal Complaints against Dr. Seen on October 31, 2012. See, four Warrants for Arrest, collectively attached hereto as Exhibit D.

13. The Board obtained documents from the Magistrate Court of Roane County indicating that Dr. Seen had made an initial appearance and had been released from jail after posting bond on November 1, 2012, in Case Nos. 12-F-276, 12-M-996 and 12-M-998, although all four charges against Dr. Seen are cited in the documents. See, "Initial Appearance: Rights Statement" and "Criminal Bail Agreement: Cash or Recognizance," attached hereto as Exhibit E.

14. On or about October 9, 2012, the Board received an Adverse Action Report from the National Practitioner Data Bank indicating that Roane General Hospital had reported a summary or emergency suspension of clinical privileges of Dr. Seen on September 7, 2012, as a result of an incident which occurred on August 31, 2012. See, Adverse Action Report dated October 8, 2012, attached hereto as Exhibit F.

15. The initial Adverse Action Report indicates that the Medical Executive Committee of Roane General Hospital concluded, following the investigation of an incident between Dr. Seen and a patient, that Dr. Seen had sustained an injury caused by the patient biting his tongue. The Medical Executive Committee could not determine a valid medical procedure which would allow for such an injury to have occurred, and Dr. Seen did not offer a reasonable explanation to explain the injury, according to the initial Adverse Action Report. The Medical Executive Committee

concluded that Dr. Seen's explanation was not credible and that the injury likely had evolved from Dr. Seen's inappropriate contact with the patient, according to the initial Adverse Action Report. See, Adverse Action Report dated October 8, 2012, attached hereto as Exhibit F.

16. On October 24, 2012, the Board received a "revision" Adverse Action Report from the National Practitioner Data Bank indicating that Roane General Hospital had reported that on October 19, 2012, its Board of Trustees had voted unanimously to affirm the Recommendation of the Medical Executive Committee. The report stated that "effective October 19, 2012, Dr. Kenneth Seen's clinical privileges and medical staff membership at/to Roane General Hospital were revoked and terminated." The report also indicates that that action is permanent. See, Adverse Action Report dated October 24, 2012, attached hereto as Exhibit G.

17. The continued licensing of Dr. Seen to practice medicine and surgery in the State of West Virginia presents a potential immediate danger to the public inasmuch as he has been charged with a felony involving child abuse and three misdemeanors relating to a child and to a patient.

CONCLUSIONS OF LAW

1. The West Virginia Board of Medicine has a mandate pursuant to the West Virginia Medical Practice Act to protect the public interest. West Virginia Code §30-3-1, et seq.

2. Probable cause exists to substantiate charges of disqualification of Dr. Seen from the practice of medicine and surgery in the State of West Virginia based upon West Virginia

Code §30-3-14(c)(17) and 11 CSR 1A 12.1(j), relating to unprofessional conduct including a departure from the standards of acceptable and prevailing medical practice.

3. West Virginia Code §30-3-14(k) and 11 CSR 3, 10.16 provide that:

...if the board determines the evidence in its possession indicates that a physician's continuation in practice or unrestricted practice constitutes an immediate danger to the public, the board may take any of the actions provided for in subsection (j) of this section on a temporary basis and without a hearing, if institution of procedures for a hearing before the board are initiated simultaneously with the temporary action and begin within fifteen days of the action. The board shall render its decision within five days of the conclusion of a hearing under this subsection.

ORDER

At its regular meeting on November 5, 2012, with a quorum of the Board present and voting, the Board found, with no dissenting votes, that under the facts and circumstances for Dr. Seen to continue to hold an active license to practice medicine and surgery in the State of West Virginia constitutes an immediate danger to the health, welfare, and safety of the public. The Board concluded, as a matter of law, that such danger to the public demands extraordinary measures.

Therefore, the Board, with a quorum present and voting, found, with no dissenting votes, that in accordance with its statutory mandate to protect the public interest, the license to practice medicine and surgery of Kenneth James Seen, M.D., License No. 15316, must be summarily **SUSPENDED** in accordance with West Virginia Code §30-3-14(k) and 11 CSR 3 10.16.

In all of the foregoing matters, Dr. Ferrebee, Dr. Wazir, Dr. Arnold and Ms. Henderson abstained from voting due to their participation in the finding of probable cause to substantiate charges against Dr. Seen as members of the Board's Complaint Committee.

WHEREFORE, the Board ORDERS that the license to practice medicine and surgery held by Kenneth James Seen M.D., License No. 15316, is SUMMARILY SUSPENDED, effective November 5, 2012, at 11:59 p.m.


NOTICE OF HEARING

Pursuant to West Virginia Code §30-3-14(k) and 11 CSR 3 10.16, if an action pursuant thereto is taken by the Board, institution of proceedings for a hearing before the Board must be initiated simultaneously with the temporary action and must begin within 15 days of such action.

Dr. Seen is hereby notified that on ~~Friday~~ ^{Monday 19th} day of November, 2012, at 6:00 p.m., the West Virginia Board of Medicine will convene in its offices at 101 Dee Drive, Charleston, West Virginia, with Herschel (Ned) Rose, III, presiding as the hearing examiner, for the purpose of hearing evidence with regard to the contents of this ORDER. At such hearing, Dr. Seen must be present in person and may be accompanied by counsel if he so desires. He may present any witnesses and/or evidence to show cause why his license to practice medicine and surgery in the State of West Virginia should not be subject to further restriction.

The foregoing ORDER OF SUMMARY SUSPENSION OF LICENSE TO PRACTICE MEDICINE AND SURGERY was ENTERED and the foregoing NOTICE OF HEARING was issued this 5th day of November, 2012.

WEST VIRGINIA BOARD OF MEDICINE


Rev. Richard Bowyer
President


Marian Swinker, M.D., M.P.H.
Secretary

WEST VIRGINIA BOARD OF MEDICINE: PUBLIC CURRENT REPORT OF LICENSEE

Saturday, November 03, 2012

[Print Report](#)**SEEN, KENNETH JAMES****MEDICAL DOCTOR**

Permanent License Number: 15316

Licenses

| License Type | License # | Status | Issued | Last Renewal | Last Expiration |
|--------------|-----------|--------|-----------|--------------|-----------------|
| PMD | PMD15316 | ACTIVE | 11/9/1987 | 7/1/2011 | 6/30/2013 |

Other States Where Licensed (License Number):
WV

Personal

Birth Date: [REDACTED] Birth Place: PHILIPPI, WV

Gender: M

Education, Training and Examinations

| Type | School or Hospital | Completed Date |
|-----------------------------|---|----------------|
| MEDICAL OR PODIATRIC SCHOOL | UNIVERSITY OF MARYLAND SCHOOL OF MEDICINE | 5/23/1986 |
| POST-GRADUATE TRAINING | WHEELING HOSPITAL, WHEELING | 6/30/1987 |

Exam Type: National Boards

Foreign Graduate: No

License Method::

Current Addresses

| Contact Type | Address | County |
|---------------------------|--|--------|
| Work Location | ROANE GENERAL HOSPITAL 200 HOSPITAL DRIVE SPENCER, WV 25276 | ROANE |
| Preferred Mailing Address | ROANE GENERAL HOSPITAL, 200 HOSPITAL DRIVE SPENCER, WV 25276 | ROANE |

Current Company Affiliations -- No Current Company Affiliations on Record**Current WV Hospital Privileges**

| Hospital Name: | City (County) | Filed Date |
|------------------------|-----------------|------------|
| ROANE GENERAL HOSPITAL | SPENCER (ROANE) | 7/1/2001 |

Current Specialties (Self-Designated)

| Rank | Specialty Code | Specialty Name |
|------|----------------|-----------------|
| 1 | FP | FAMILY PRACTICE |

Current Supervision -- No Supervision Information on Record**Discipline Cases** -- No Discipline Cases on Record**Malpractice** -- No Malpractice Records Found**DISCLAIMER FOR MALPRACTICE**

Consumers should take the following factors into consideration when evaluating a physician's competence from malpractice data.

- A number of studies have been conducted to identify indicators of substandard care among physicians. There is no conclusive evidence that malpractice data correlates with professional competence.
- There are a variety of factors unrelated to professional competence or conduct which affect the likelihood that a physician will be the subject of a malpractice claim, such as, the physician's time in practice, the nature of the specialty, the types of patients treated, geographic location, etc. For example, certain medical specialties have a higher rate of malpractice claims because of

EXHIBIT**A**

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higher risk inherent to the field of practice.

- Settlements of malpractice cases by insurance companies are sometimes handled as business decisions. In the case of some minor claims, it is less expensive for the insurance company to make a monetary settlement than it is for them to take the case to court. Many times such cases are settled without a finding of fault or admission of guilt on the part of the physician.
- A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred.

End of Report

Nov. 1. 2012 11:58AM

No. 0452 P. 1

IN THE MAGISTRATE COURT OF

Roane

COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

12f-276

Kenneth Seen

Case No.

12M-997/998

Defendant

111 Market Street Apt. 7 Spencer, WV

Address

Social Security No.

Driver's License No.

☐ Misdemeanor

☐ Felony

Date of Birth

CRIMINAL COMPLAINT

I, the undersigned complainant, upon my oath or affirmation, state the following is true and correct to the best of my knowledge and belief. On or about 10/07/12 in Roane County, West Virginia, in violation of W. Va. Code (cite specific section, subsection, and/or subdivision as applicable) the defendant did (state statutory language of offense)
Child Abuse creating risk of injury 61-8D-3(c) Battery 61-2-9(c) Assault 61-2-9

I further state that this complaint is based on the following facts: See attached

Continued on attached sheet? ☒ yes ☐ no

Complainant (who appears before magistrate):

Haminack, F.L.

Name

100 Triplett Road Spencer, WV

Address

Spencer

927-0950

Telephone

Trooper

Office or title, if any

Complainant Signature

On this complaint, sworn or affirmed before me and signed this date by complainant in my presence, the item(s) checked below apply:

☒ Probable cause found

☐ Summons issued

☒ Warrant issued

☐ Warrantless arrest

☐ No probable cause found

Magistrate Signature

Date

10-31-12

EXHIBIT

B

Nov. 7. 2012 11:58AM

No. 0452 P. 2

12F-276

12M-997/948

(Criminal Complaint Continued)

On 10/17/12 I was requested by Sgt. J. Caldwell of the Spencer City Police Department to investigate a child abuse complaint involving a 14 year old male and Mr. Kenneth Seen, pastor of Christian Society of Roane County, located in Spencer. Sgt. Caldwell stated that the [REDACTED] is an employee of the City and would be more comfortable with an outside agency investigating the incident.

On the same date, at approximately 1330 hours I began interviewing the victim and three other teenagers that were present. The victim told me that Mr. Seen picked him and his brother up to take them to church on October 07, 2012 in the evening. The victim stated that he was sitting on a ledge over the entrance and had his knife and cell phone. The victim stated that Mr. Seen instructed him to get down and he did. The victim went on to say that he went to go back up and get his phone and knife and Mr. Seen grabbed him about the waist and threw him to the ground. The victim went on to say that Mr. Seen got on his back and began punching him with closed fists repeatedly. The victim stated that Mr. Seen took him into the rear of the building and pushed him into the refrigerator. The victim stated that he used profanity and Mr. Seen then slapped him across the face. I spoke with three other teenage boys present and separate times. All of them recounted the incident as the victim did. No other adults were present at the time of the incident.

Nov. 1. 2012 11:59AM

No. 0452 P. 3

12F-276

12M-997/998

CASE NO.

(Criminal Complaint Continued)

Child abuse creating the risk of injury 61-8D-3(c)

Any person who abuses a child and by the abuse creates a substantial risk of serious bodily injury or death

Battery 61-2-9(c)

Any person who unlawfully and intentionally makes physical contact of an insulting or provoking nature with the person of another or unlawfully and intentionally causes physical harm to another person

Assault 61-2-9(b)

Any person who unlawfully attempts to commit a violent injury to the person of another or unlawfully commits an act that places another in reasonable apprehension of immediately receiving a violent injury

Nov. 1. 2012 11:59AM

No. 0452 P. 5

IN THE MAGISTRATE COURT OF

Roane

COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

Kenneth Seem

Case No.

12M-996

Defendant

111 Market Street Apt. 7 Spencer, WV

Address

Social Security No.

Driver's License No.

☒ Misdemeanor
☐ Felony

Date of Birth

CRIMINAL COMPLAINT

I, the undersigned complainant, upon my oath or affirmation, state the following is true and correct to the best of my knowledge and belief. On or about 08/31/12 in Roane County, West Virginia, in violation of W.Va. Code (cite specific section, subsection, and/or subdivision as applicable) Battery 61-2-9(c) the defendant did (state statutory language of offense)

I further state that this complaint is based on the following facts: See attached

Continued on attached sheet? ☒ yes ☐ no

Complainant (who appears before magistrate):

Hammack, F.L.
Name

100 Triplett Road Spencer, WV
Address

Spencer 927-0950
Telephone

Trooper

Office or title, if any

[Signature]
Complainant Signature

On this complaint, sworn or affirmed before me and signed this date by complainant in my presence, the item(s) checked below apply:

10 ☐ Probable cause found
☐ Summons issued
RG ☐ Warrant issued
☐ Warrantless arrest
☐ No probable cause found

10-31-12
Magistrate Signature

Date

EXHIBIT

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White - return
Green - defendant
Yellow - file
Pink - complainant
Goldenrod - prosecutor

Nov. 1. 2012 11:59AM

No. 0452 P. 6
CASE NO. 12M-996

(Criminal Complaint Continued)

On 09/18/12, Ms. Y [REDACTED] W [REDACTED] came to WVSP Spencer to file a complaint in reference to an assault committed on her father, Mr. J [REDACTED] S [REDACTED]. The victim is a resident at Roane General Hospital due to dementia and parkinson's disease. Mr. S [REDACTED] had recently broken his hip and was transferred to Cabel Huntington Hospital for treatment. Mr. S [REDACTED] was returned to Roane General on the date of incident and was confined to his bed. Ms. W [REDACTED] stated that she was informed by Ms. J [REDACTED] Q [REDACTED] of Roane General that her father had bitten the tongue of his attending physician, Dr. Kenneth Seen. Ms. C [REDACTED] told Ms. W [REDACTED] that the attending nurses did clean blood from her father's face and removed an item from his mouth. Ms. [REDACTED] stated that she was informed that Dr. Seen traveled to [REDACTED] for stitches.

On today's date and time of report, Ms. W [REDACTED] brought an authorization to use and disclose protected health information. The document allows the West Virginia State Police to access Mr. S [REDACTED] medical records.

On Thursday, September 19, 2012 at approximately hours, I retrieved medical records from Roane General Hospital in regards to the incident reported by Mrs. W [REDACTED]. Among the information in the records was a history an examination conducted by Dr. [REDACTED] of Mr. [REDACTED] S [REDACTED]. In the report, Dr. M [REDACTED] notes that on the previous evening, Mr. S [REDACTED] bit of a portion of Dr. Seen's tongue. The report also states that Dr. Seen sought medical treatment. The report notes that there was no injury to Mr. S [REDACTED] and that he did not wish to discuss the events of the previous evening. I obtained search warrants for Dr. Seen's medical records generated from the night of the incident and any investigations conducted by the hospital.

On 10/02/12, I obtained said information and obtained among other items, Dr. Seen's statement of events. Dr. Seen claimed that Mr. S [REDACTED] motioned for him to come closer. Dr. Seen complied and in that moment, Mr. S [REDACTED] grabbed his tongue and pulled Dr. Seen close to him and then Dr. Seen's memory fades. His statement claimed that he just remembered pain and blood. I also obtained the names of the nurses and ER doctor that tended to Dr. Seen on that evening.

On 10/10/12, I obtained a statement from Dr. [REDACTED], who was the ER doctor at Roane General and tended to Dr. Seen. Dr. [REDACTED] stated that Dr. Seen had a significant portion of his tongue bit off and the injury was so that Dr. Seen could not have done it to himself. When presented with Dr. Seen's statement of how it happened, Dr. [REDACTED] stated that it could not be true. Dr. [REDACTED] explained that in order for Dr. Seen's statement to be correct, Mr. S [REDACTED] would have had to bite his own finger. In addition, Dr. [REDACTED] stated that Mr. S [REDACTED] would not be able to pick up any item, let alone grab Dr. Seen's tongue and hold on to it.

On 10/16/12, I obtained statements from the nursing staff that tended to both Dr. Seen and Mr. [REDACTED] on 08/31/12. The nursing staff told me that Mr. S [REDACTED] was never aggressive towards any of them before or after the incident with Dr. Seen. They all also agreed that Mr. S [REDACTED] was not physically able to carry out the actions described by Dr. Seen. Several of the medical staff claimed that Dr. Seen typed on his personal laptop computer that Mr. S [REDACTED] bit off his tongue.

On 10/26/12, I obtained medical records for [REDACTED] where Dr. Seen was referred for treatment. Dr. Seen's accounts to [REDACTED] were different from those he provided to RGH.

Nov. 1. 2012 11:59AM

No. 0452 P. 7
CASE NO. 12M-996

(Criminal Complaint Continued)

Battery 61-2-9(c)

Any person who unlawfully and intentionally makes physical contact of an insulting or provoking nature with the person of another or unlawfully and intentionally causes physical harm to another person

IN THE MAGISTRATE COURT OF ROANE COUNTY, WEST VIRGINIAWARRANT FOR ARREST

State of West Virginia

v.

Case No(s). 12-F- 276CHILD ABUSE CREATING RISK OF
INJURYKENNETH SEEN

Defendant

111 MARKET STREET

Address

SPENCER WV 25276

To Any Law Enforcement Officer:

WHEREAS this court has found probable cause to believe that the defendant, KENNETH SEEN
did commit an offense or offenses in this County on the 31 day of OCTOBER, 2012
previous to the issuance of this Warrant, by unlawfully *[State statutory language of offense(s)]*

(c) Any person who abuses a child and by the abuse creates a substantial risk of serious bodily injury or of death to the child is guilty of a felony and, upon conviction thereof, shall be fined not more than three thousand dollars and confined to the custody of the division of corrections for not less than one nor more than five years. 61-8D-3

against the peace and dignity of the State.

Therefore, you are commanded in the name of the State of West Virginia to apprehend the above-named defendant and bring that person before any magistrate in this County, to be dealt with in relation to the charge(s) according to law. This arrest warrant is to be executed in the following manner (*check one*):

☒ Forthwith☐ Between the hours of 9 a.m. and 4 p.m., Monday through Friday☐ Other (*as specified*): _____Given under my hand this 31 day of OCTOBER, 2012
Magistrate

Executed by: _____ in _____

County, W.Va., on _____

(Date)



IN THE MAGISTRATE COURT OF ROANE COUNTY, WEST VIRGINIAWARRANT FOR ARREST

State of West Virginia

v.

Case No(s). 12-M-996KENNETH SEENBATTERY

Defendant

111 MARKET STREET

Address

SPENCER WV 25276

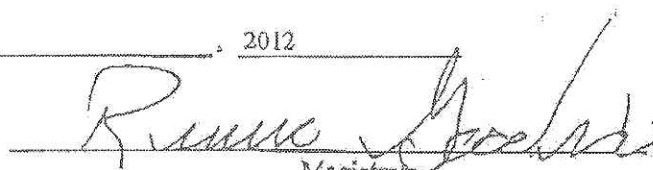
To Any Law Enforcement Officer:

WHEREAS this court has found probable cause to believe that the defendant, KENNETH SEEN, did commit an offense or offenses in this County on the 31 day of OCTOBER, 2012 previous to the issuance of this Warrant, by unlawfully *[State statutory language of offense(s)]*

(c) Battery. -- If any person unlawfully and intentionally makes physical contact of an insulting or provoking nature with the person of another or unlawfully and intentionally causes physical harm to another person, he shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail for not more than twelve months, or fined not more than five hundred dollars, or both such fine and imprisonment. 61-2-9(c)

against the peace and dignity of the State.

Therefore, you are commanded in the name of the State of West Virginia to apprehend the above-named defendant and bring that person before any magistrate in this County, to be dealt with in relation to the charge(s) according to law. This arrest warrant is to be executed in the following manner (check one):

☒ Forthwith☐ Between the hours of 9 a.m. and 4 p.m., Monday through Friday☐ Other (as specified): _____Given under my hand this 31 day of OCTOBER, 2012

Magistrate

Executed by: _____ in _____

County, W. Va., on _____
(Date)

IN THE MAGISTRATE COURT OF _____ ROANE _____ COUNTY, WEST VIRGINIA

WARRANT FOR ARREST

State of West Virginia

v.

Case No(s). 12-M-9987KENNETH SEEN

Defendant

BATTERY111 MARKET STREET

Address

SPENCER WV 25276

To Any Law Enforcement Officer:

WHEREAS this court has found probable cause to believe that the defendant, KENNETH SEEN did commit an offense or offenses in this County on the 31 day of OCTOBER, 2012 previous to the issuance of this Warrant, by unlawfully *[State statutory language of offense(s)]*

(c) Battery. -- If any person unlawfully and intentionally makes physical contact of an insulting or provoking nature with the person of another or unlawfully and intentionally causes physical harm to another person, he shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail for not more than twelve months, or fined not more than five hundred dollars, or both such fine and imprisonment. 61-2-9(c)

against the peace and dignity of the State.

Therefore, you are commanded in the name of the State of West Virginia to apprehend the above-named defendant and bring that person before any magistrate in this County, to be dealt with in relation to the charge(s) according to law. This arrest warrant is to be executed in the following manner *(check one)*:

☒ Forthwith☐ Between the hours of 9 a.m. and 4 p.m., Monday through Friday☐ Other *(as specified)*: _____Given under my hand this 31 day of OCTOBER, 2012
Magistrate

Executed by: _____ in _____

County, W.Va., on _____

(Date)

IN THE MAGISTRATE COURT OF ROANE COUNTY, WEST VIRGINIAWARRANT FOR ARREST

State of West Virginia

v.

Case No(s). 12-M-998KENNETH SEENASSAULT

Defendant

111 MARKET STREET

Address

SPENCER WV 25276

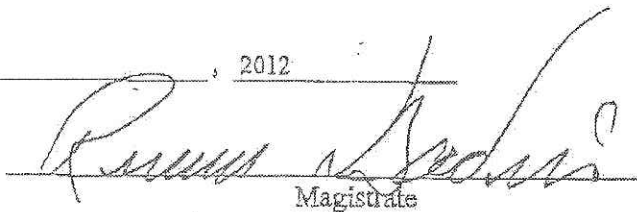
To Any Law Enforcement Officer:

WHEREAS this court has found probable cause to believe that the defendant, KENNETH SEEN
 did commit an offense or offenses in this County on the 31 day of OCTOBER, 2012
 previous to the issuance of this Warrant, by unlawfully *[State statutory language of offense(s)]*

(b) Assault. -- If any person unlawfully attempts to commit a violent injury to the person of another or unlawfully commits an act which places another in reasonable apprehension of immediately receiving a violent injury, he shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail for not more than six months, or fined not more than one hundred dollars, or both such fine and imprisonment 61-2-9.

against the peace and dignity of the State.

Therefore, you are commanded in the name of the State of West Virginia to apprehend the above-named defendant and bring that person before any magistrate in this County, to be dealt with in relation to the charge(s) according to law. This arrest warrant is to be executed in the following manner (check one):

☒ Forthwith☐ Between the hours of 9 a.m. and 4 p.m., Monday through Friday☐ Other (as specified): _____Given under my hand this 31 day of OCTOBER, 2012


Magistrate

Executed by: _____ in _____

County, W.Va., on _____

(Date)

Nov. 1. 2012 11:02AM

No. 1793 P. 2

IN THE MAGISTRATE COURT OF ROANY COUNTY, WEST VIRGINIA

State of West Virginia

v.

Criminal Case Number(s): 12F-274
12M-996/448

KENNETH SPAN
Defendant (Full Name)

Driver's License No.

Social Security No.

Date of Birth

Complaint Date: 10-31-12

INITIAL APPEARANCE;
RIGHTS STATEMENTS

① BATTERY

③ CHILD ABUSE
CREATING RISK
OF INJURY

④ ASSAULT

A. GENERAL: EITHER MISDEMEANOR OR FELONY OR BOTH

1. The magistrate has informed me that I am charged with the offense(s) of

_____ and that, if I am later found guilty, the possible penalties are (state mandatory minimum penalty, if any, and maximum penalty):

① ② UP TO 1 YEAR JAIL
AND/OR UP TO \$500 FINE ③ UP TO \$3000 FINE
AND 1-5 YEARS PRISON ④ UP TO 6 MONTHS JAIL
AND/OR UP TO \$100 FINE

2. The magistrate has informed me that, if the W.Va. Code provides for a possible jail penalty, I have the right to be represented by an attorney at every further proceeding and that, if I qualify as being unable to afford to hire an attorney, one will be appointed to represent me. I understand that if I decide to represent myself, I cannot later claim that I was denied my right to be represented by an attorney.

DEFENDANT MUST INITIAL ONE OF THE FOLLOWING THREE CHOICES IF A JAIL PENALTY IS POSSIBLE:

- 7 12 (a) I give up my right to have an attorney represent me.
(b) I want to hire an attorney to represent me.
(c) I want an attorney appointed to represent me.

I understand that, if I am found guilty, I might be required to reimburse the State for attorney fees even if a court-appointed or public-defender attorney is approved to represent me.

Date: 11-01-12

Defendant's Signature: [Signature]

EXHIBIT

tabbies

Nov. 1. 2012 11:03AM

No. 1793 P. 3

12F-276

12M-996/998

Initial Appearance: Rights Statement, page 2 of 2

3. The magistrate has informed me that, except for any felony offense for which the penalty is life imprisonment, the magistrate may release me from custody while I am waiting for further proceedings on the charge(s) stated above if I am able to make bail generally as follows:

\$ 8000

10% CASH - Property

4. The magistrate has given me reasonable time and opportunity to talk with an attorney or with one relative or other person for the purpose of obtaining counsel or of arranging bail.

5. The magistrate has informed me that I do not have to make any statement to anyone other than the statements in this document and that any statement I do make may be used against me.

B. MISDEMEANOR CHARGE(S) ONLY

1. The magistrate has informed me that I have a right to plead not guilty; that I have a right to trial by a jury or by a magistrate without a jury; and that, if I plead guilty or no contest, I give up my right to a trial.
2. The magistrate has informed me that I have the right to demand a jury trial and that, if I want a jury trial, I must let the magistrate court know in writing no later than 20 days from the date of this initial appearance or, if I receive court-appointed counsel, 20 days from the date that an attorney is appointed. The magistrate has further informed me that if I demand a jury trial, then I may not withdraw my demand for a jury trial if the prosecuting attorney objects to the withdrawal. If I do not demand a jury trial within the 20-day period, I have also been informed that I give up my right to a jury trial, the magistrate will try my case without a jury and an appeal of a magistrate court conviction will not entitle me to a jury trial in circuit court. I understand as well that if I have a jury brought in, the jury fee will be assessed against me if I am convicted.

C. FELONY CHARGE(S) ONLY

1. The magistrate has informed me that, since I have been charged with a felony offense for which the penalty is life imprisonment, only the circuit court may grant and set bail.
2. The magistrate has informed me that, since I have been charged with a felony, I have the right to a preliminary hearing for a determination of whether any felony charge(s) should be bound over for possible presentation to a grand jury.

DEFENDANT MUST INITIAL ONE OF THE FOLLOWING THREE CHOICES:

- ☒ (a) I want a preliminary hearing.
- ☐ (b) I give up my right to a preliminary hearing.
- ☐ (c) I or my attorney will inform the court whether I want a preliminary hearing. I understand that failure to inform the court within 10 days if I am not free on bail or within 20 days if I am free on bail will mean that I do not want a preliminary hearing and that the felony charge(s) against me will be bound over for possible presentation to a grand jury.

Date: 11-01-12

Defendant's Signature: [Signature]

I have informed the defendant personally of the applicable matters set out above. I find that any waiver of rights herein is made knowingly and voluntarily by the defendant. (Initial IF APPLICABLE) I certify that the defendant refused to initial and/or sign this document at the appropriate places.

Date:

Magistrate's Signature:

Nov. 1. 2012 11:03AM

No. 1793 P. 4

IN THE MAGISTRATE COURT OF

Roanoke

COUNTY, WEST VIRGINIA

State of West Virginia

12F-276

vs.

Case No.

12M-996/998

Defendant

Kenneth Spivey

Address & Telephone Number(s)

Driver's License Number

Birth Date

(Bail amount per charge: \$2000 (200 cash))

Social Security Number

CRIMINAL BAIL AGREEMENT: CASH OR RECOGNIZANCE

A. AMOUNT OF BAIL. The defendant having been charged with the (initial one) 1st misdemeanor or 1st felony offense(s) of

BATTERY (X 2)

ASSAULT

CARRY WEAPON

and having a right to bail, this court hereby sets bail for the defendant in the amount of \$ 8000 in the form of (initial one) RC cash or

RC recognizance or RC 10% cash and personal recognizance or RC 10% cash and surety. If real property is used as security,

a justification of surety (initial one) RC is or RC is not required.

B. TERMS AND CONDITIONS FOR RELEASE ON BAIL. If admitted to bail, the undersigned defendant understands and agrees:

1. To be present personally in this court at 11:00 AM on the 11th day of November, or as will be specified in a notice of hearing that will be mailed at the above address for either (initial one) RC misdemeanor plea proceeding or RC trial or RC felony preliminary hearing;
2. To be present personally at any other proceeding(s) concerning the above charge(s) and to obey any notice, process or order issued by this or the circuit court until this or the circuit court has disposed of all matters with respect to which the bail granted herein may apply;
3. To appear to begin serving jail or prison time as ordered by the disposing court if that court renders a judgment of guilt on the offense(s) charged and imposes a penalty of incarceration;
4. To inform the court immediately of any change of name, address, or telephone number;
5. To not leave the State of West Virginia without written approval by this court;
6. To not violate any state or federal laws;
7. To have no direct or indirect contact with the victim(s) in this matter;
8. To comply with the following additional condition(s) of this bail:

The undersigned defendant also understands and agrees that, if he or she is admitted to bail and does not fulfill the terms and condition(s) above, the full bail amount is subject to forfeiture and may be increased; that other penalties for violation of such terms and condition(s) may be imposed; and that, if this defendant fulfills the terms above, the surety will be exonerated and the cash deposit returned if appropriate, or the recognizance satisfied.

Defendant Signature

Date

Magistrate Signature

Date

☐ File
☐ Defendant
☐ State

Nov. 1, 2012 12:02PM
FROM: CENTRAL REGIONAL JAIL BOOKING 304 765 2309

11/01/2012 11:25
#207 P.005/005

Nov. 1, 2012 11:03AM

No. 1793 P. 5
12F-076

CASE No. 12M-996/948

CRIMINAL BAIL CASH OR RECOGNIZANCE

2. TYPE OF BAIL. (Magistrate is to initial and complete only one of the following.)

1. CASH. The defendant or, on the defendant's behalf, _____ has
(have) deposited cash with this court in the amount of \$ _____ (name of other depositor(s) if any),
subject to the terms and conditions set out above.

2. PERSONAL RECOGNIZANCE. The undersigned defendant on his or her own recognizance does undertake to forfeit a sum of
money equal to the required amount of bond if he or she fails to comply with the specific terms and conditions set out above.

3. RECOGNIZANCE. The undersigned _____ (adult owner(s) of real property or surety company)
by recognizing bond on the defendant's behalf, does or do undertake to forfeit a sum of money equal to the required amount of
bond if the defendant fails to comply with the specific terms and conditions set out above. A justification of surety (initial one)
is or _____ is not required, and if so, is incorporated herein by reference.

4. CASH AND PERSONAL RECOGNIZANCE. The defendant or, on the defendant's behalf, _____ (name of other depositor(s) if any)
has (have) deposited cash with the court in the amount of \$ 800, which
represents 10 percent of the bail, and which will be forfeited if the defendant does not comply with the terms and conditions set
out above. Additionally, the undersigned defendant on his or her own recognizance does undertake to forfeit a sum of money
equal to 90 percent of the bail if he or she fails to comply with the specific terms and conditions set out above.

5. CASH AND SURETY. The defendant or, on the defendant's behalf, _____ (name of other depositor(s) if any)
has (have) deposited cash with the court in the amount of \$ _____, which represents 10 percent of the bail, and
which will be forfeited if the defendant does not comply with the terms and conditions set out above. Additionally, the
undersigned, _____, by surety in the form of _____ (describe surety, e.g., real property, stock, bonds)
(name of surety(s)) on the defendant's behalf, does or do undertake to forfeit a sum of money equal to 90 percent of the bail if the defendant fails
to comply with the specific terms and conditions set out above. A justification of surety (initial one if real property is used as surety)
is or _____ is not required, and if so, is incorporated herein by reference.

CONSENT TO APPLY DEPOSIT. As the person(s) posting the bail, I (we) _____ do or _____ do not consent to the application of all or part
of the cash deposit to court costs, fees and fines if the disposing court renders a judgment of guilt against the defendant.

Defendant Signature (needed only if defendant personally posts
bail)

Date

Signaling below, I acknowledge that I have reviewed and agree to the same terms and conditions of bail for pretrial release agreed to by the
defendant.

Other Depositor or Surety Signature(s), if any

Date

Other Depositor or Surety Name(s) and Address(es) (type or print):

Other Depositor or Surety Social Security Number(s):

Other Depositor or Surety Telephone Number(s):

ADMISSION TO BAIL. Accordingly, the court hereby approves bond for the defendant and ORDERS the defendant's continued freedom or
release from custody.

Witnessed before me and ORDERED this 11-01-12 day of

Magistrate Signature

Exhibit F Redacted

Exhibit G Redacted

BEFORE THE WEST VIRGINIA BOARD OF MEDICINE

WEST VIRGINIA BOARD OF MEDICINE,

Petitioner,

v.

Complaint No. 12-123-W

KENNETH JAMES SEEN, M.D.

Respondent.

CERTIFICATE OF SERVICE

I, Rebecca L. Stepto, Disciplinary Counsel for the Petitioner West Virginia Board of Medicine, do hereby certify that on November 5, 2012, I caused the foregoing "Order of Summary Suspension of License to Practice Medicine and Surgery and Notice of Hearing" to be served upon Respondent Kenneth James Seen, M.D., at:

Kenneth James Seen, M.D. (*via Hand Delivery and Certified Mail*)
111 Market Street
Spencer, WV 25276

Kenneth James Seen, M.D. (*via Certified Mail*)
Roane General Hospital
200 Hospital Drive
Spencer, WV 25276


Rebecca L. Stepto